

State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of January 14, 2014
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**State of Maine
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Board Members Present

Maroulla Gleaton, M.D, Chairman
David D. Jones, M.D., Board Secretary
David R. Andrews, M.D.
Louisa Barnhart, M.D.
Cheryl Clukey
Dana Dyer
David Nyberg, Ph.D.
Christopher R. Ross, P.A.-C
Peter J. Sacchetti, M.D.

Board Staff Present

Randal C. Manning, Executive Director
Mark C. Cooper, M.D., Medical Director
Jean M Greenwood, Administrative Assistant
Kathryn Levesque, Board Investigator
Tim Terranova, Consumer Assistant

Attorney General's Office Staff

Dennis Smith, Assistant Attorney General
Detective James Gioia

Dr. Dumont was excused.

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions are taken on all matters discussed during executive session. Complaint discussions are projected on the wall.

PUBLIC SESSIONS

9:19 a.m. – 9:22 a.m.
9:25 a.m. – 9:36 a.m.
12:03 p.m. – 12:12 p.m.
12:12 p.m. – 12:56 p.m.
12:56 p.m. – 12:57 p.m.
1:55 p.m. – 2:11 p.m.
2:22 p.m. – 3:31 p.m.
3:31 p.m.

PURPOSE

Call to Order
Public Session
Complaint Motions
Noon Recess
Public Session
Public Session
Public Session
Adjournment

EXECUTIVE SESSION

9:22 a.m. - 9:25 a.m.	Complaints
9:36 a.m. – 12:03 p.m.	Complaints
12:57 p.m. – 1:55 p.m.	Informal Conference
2:11 p.m. – 2:22 p.m.	Consent Agreement Monitoring

I. Call to Order

Dr. Gleaton called the meeting to order at 9:16 a.m.

A. Amendments to Agenda

- a. Hil Rizvi, M.D. to List B under Licensing
- b. Amend off the Informal Conference CR 13-105

2. Scheduled Agenda Items

- a. Informal Conference 1:00 P.M. CR 13-84/168

Executive Session

II. Complaints

1. Letters of Guidance (None)

2. CR12-34

Dr. Barnhart moved to investigate further CR12-34. Dr. Andrews seconded the motion, which passed 8-0-0-1 with Dr. Jones recused.

3. CR13-167 Douglas G. Couper, M.D.

Dr. Gleaton moved to dismiss CR13-167 Douglas G. Couper, M.D. with a letter of guidance. Ms. Clukey seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

This case involves a patient who overdosed and died and was subsequently found to have huge quantities of controlled substances in her possession. The patient's physician was queried as to how this had occurred and how his practice manages controlled substances. The physician provided a thoughtful reply, which was verified by his office records. The records show a very difficult patient whose care he had recently assumed after a partner had retired. With the exception of pill counts, most aspects of Universal Precautions were being monitored. The physician has also demonstrated an effort to have his practice improve the monitoring of all patients on controlled substances.

The letter of guidance will encourage the rigorous use of Universal Precautions in prescribing all controlled substances. The physician should ensure that patients on large doses/quantities of controlled substances are scheduled for frequent visits, monitoring, and surveillance.

4. CR12-225

Dr. Andrews moved to investigate further CR12-225. Mr. Dyer seconded the motion, which passed 8-0-0-1 with Dr. Jones recused.

5. CR13-46

Dr. Andrews moved to dismiss CR13-46 with a letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

The Board was notified by law enforcement authorities of suspected excessive opioid prescribing. The index patient's record was reviewed, after which a complaint was made against the doctor's license. Review of additional records raised questions of appropriate opiate prescribing, patient oversight, and concerns for appropriate medical record keeping. The doctor committed to improve her practice. She attended educational meetings, which addressed these shortcomings. She assumed a leadership position in her institution in developing policies and best practices for other providers in the community. Further record review showed positive changes in her practice, but also some need for ongoing improvement.

The letter of guidance will emphasize recognizing the importance of the consistent practice of universal precautions in opioid prescribing, and recognizing that good medical records are an essential component of good medical care.

6. CR13-160

Dr. Gleaton moved to dismiss CR13-160. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Barnhart recused.

The father of a patient complained about the competency of a psychiatrist who supervised a nurse practitioner who treated his son. Review of the records indicates reasonable oversight and psychiatric care that nevertheless could not prevent an abrupt, unfortunate outcome. Both the nurse practitioner and physician expressed appropriate dismay and sorrow for the family's loss.

7. CR13-166

Mr. Dyer moved to dismiss CR13-166. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

A three-year-old boy fractured his left arm. The physician treated him properly with a cast and the standard waterproof padding. Unbeknownst to the practice or the physician the waterproof padding material was defective. In fact, this material was subject to a product recall a short time later. To compound the matter the distributor and sales representative did not inform the practice or surgeon in a timely manner after determining the product was defective. This surgeon provided an appropriate standard of care, without knowledge of this product defect.

8. CR13-175

Dr. Jones moved to dismiss CR13-175. Dr. Andrews seconded the motion, which passed unanimously.

This is a complaint by a family about the care their child received by a pediatrician and her practice. In fact, the pediatrician was never the physician of record and never saw the child as a

patient. The physician is the "Managing Physician" of the practice, but the patient was seen by a Pediatric Nurse Practitioner. The family incorrectly assumed the pediatrician was their primary care provider.

The medical care provided to the patient for abdominal pain, reflux, and constipation appears to have been appropriate and thoughtful as judged by a variety of providers' records.

The Managing Physician did contact the family and review their concerns. She subsequently did an extensive practice review, which is thoroughly documented. She then updated the family once this review was complete. Unfortunately, they were not satisfied with this outcome. The care was appropriate.

9. CR13-159

Ms. Clukey moved to investigate further CR13-159. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

10. CR13-187

Dr. Jones moved to investigate further CR13-187. Mr. Dyer seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

11. CR13-164

Dr. Barnhart moved to dismiss CR13-164. Dr. Jones seconded the motion, which passed unanimously.

A patient seeking previously helpful medications for several well-documented conditions complains that these medications are no longer available to him due to public health measures. The patient was very frustrated by this situation. Alternative non-pharmacologic support was offered and documented to be helpful by adjunctive staff.

The patient was especially frustrated by brief access to his previous medication during a pilot trial, which was ultimately discontinued. The patient was not willing to trial other appropriate and available medications to alleviate the aggravation. Staff provided alternative non-pharmacologic support as long as the patient was willing to accept it.

12. CR13-194

Mr. Dyer moved to dismiss CR13-194. Ms. Clukey seconded the motion, which passed unanimously.

This patient has suffered a right knee partial quadriceps tendon tear. The medical record demonstrates she is unable to be compliant and follow through with rehabilitation. She complains the doctor has been unkind in recording his impressions of her and her husband's

reactions regarding her inability to engage in physical therapy. She has been provided the appropriate standard of care.

13. CR13-81

Dr. Jones moved to dismiss CR13-81. Ms. Clukey seconded the motion, which passed 8-0-0-1 with Dr. Barnhart recused.

This is a complaint by a primary care provider about the work-up that two of her patients received by a surgical sub-specialist. The cases were sent to another specialist for review and no problems in medical/surgical care were identified, although differences in "style" were noted. In addition, the hospital where the physician practices provided an outside peer review that is part of the physician's file and no quality issues were noted.

14. CR13-116

Dr. Andrews moved to dismiss CR13-116. Dr. Jones seconded the motion, which passed unanimously.

A pharmacist notified the Board of his concerns regarding high dose opioid prescribing for a patient who did not appear to be in severe chronic pain. After review of the patient's Prescription Monitoring Report, the Board issued a complaint against the physician. The physician describes a complex patient for whom he had cared for decades until he moved away from the rural setting. When other remaining providers were unable to manage the patient, the physician agreed to re-assume care for the patient in spite of the distance involved. The patient's medical record revealed excellent documentation and attention to the elements of universal precautions. Questions raised by the Board were answered appropriately.

15. CR13-130

Ms. Clukey moved to order an Informal Conference in the matter of CR13-130. Dr. Jones seconded the motion, which passed unanimously.

16. CR13-148

Ms. Clukey moved to dismiss CR13-148. Dr. Andrews seconded the motion, which passed unanimously.

The patient complains that the treating Physician Assistant care was inappropriate. She states during her two-week post-operative follow-up appointment, the PA tested her leg extension by forcing/pushing her leg, which caused it to snap down in an abrupt manner causing great pain. He regrets the patient interpreted his approach as uncaring and takes responsibility for not doing a better job communicating with the patient. The PA admits he often uses humor, such as "stop walking like Frankenstein," to put a patient at ease. He regrets the patient misinterpreted his humor and was offended. This was not his intention and he will reassess his use of humor in future patient encounters. The PA's medical care was appropriate.

17. CR13-162

Dr. Jones moved to investigate further CR13-162. Mr. Dyer seconded the motion, which passed unanimously.

18. CR13-174 David M. Walter, M.D.

Dr. Barnhart moved to dismiss CR13-174 David M. Walter, M.D. with a letter of guidance. Mr. Dyer seconded the motion, which passed unanimously.

A parent complains that his young child was treated with medication without proper consideration, and he disputes several diagnoses.

According to the physician, there was extensive discussion and a contract signed by the parent-complainant. There was distress and disagreement between the parents. In his rush to help an obviously distressed situation, the physician did not fully develop the cooperation of both parents, and the FDA status of medications for a child this age was not discussed.

A brief delay in treatment to assess the opinion of the local school and to elicit fully both parents' cooperation would have been prudent and possibly prevented this complaint.

The letter of guidance will stress that in very young children the most recent DSM and FDA guidelines should be carefully considered.

19. CR13-186

Dr. Andrews moved to investigate further CR13-186. Dr. Nyberg seconded the motion, which passed 7-1-0-1 with Dr. Gleaton recused.

20. CR13-192

Dr. Sacchetti moved to dismiss CR13-192. Ms. Clukey seconded the motion, which passed unanimously.

The complainant alleges that his physician discontinued his analgesic medication, resulting in uncontrolled back pain and functional decline. The complainant also argues that the physician acted unethically by placing public health policy ahead of his care. In summation, the records neither substantiate the complainant's assertion that he suffered under the care of the physician, nor do they reflect that the physician acted inappropriately or unethically.

21. CR13-202

Dr. Nyberg moved to dismiss CR13-202. Dr. Jones seconded the motion, which passed unanimously.

There was no attempt to deceive the Board, just an understandable delay in the application for a permanent license. The application has been completed and fees received.

22. Intentionally Left Blank

23. Intentionally Left Blank

III. Assessment and Direction

24. AD13-212 (CR15-11)

Mr. Dyer moved to issue a complaint in the matter of AD13-212 (CR15-11). Dr. Jones seconded the motion, which passed unanimously.

25. Intentionally Left Blank

26. Intentionally Left Blank

27. Complaint Status Report (FYI)

28. Consumer Assistant Feedback (FYI)

29. Physician Feedback (FYI)

IV. Informal Conferences

11:00 A.M. CR 13-105 Amended off the agenda.

1:00 P.M. CR 13-84/168

Dr. Jones moved to dismiss CR 13-84/168. Dr. Andrews seconded the motion, which passed unanimously.

The complaints against this Physician Assistant were reviewed in an informal conference. The complaints were based on poor communication between the Physician Assistant and her patients, and between the Physician Assistant and her co-workers, staff, and administrators. Upon discussion in the informal conference, it was clear that the Physician Assistant understood the concerns of the Board. She is engaged in personal growth to continue to improve her ability to communicate in all situations, and is learning how to handle confrontation appropriately. Her previous and current physician supervisors were present and fully supported this Physician Assistant in her clinical abilities and in her overall competence. Her complaints occurred in a difficult practice situation with limited support. Her current practice situation offers ongoing mentoring and support. The Board is confident that this Physician Assistant will continue to work on the concerns identified during this informal conference. She will seek group situations where she can continue to work on her communication skills. The Board commends her on her personal growth already achieved.

PUBLIC SESSION

V. Minutes of December 10, 2013

Dr. Nyberg moved to approve the minutes of December 10, 2013 as corrected. Dr. Sacchetti seconded the motion, which passed unanimously.

VI. Board Orders and Consent Agreement Monitoring and Approval

A. Board Orders (None)

B. Consent Agreement Monitoring and Approval

1. Robert Phelps, M.D.

Mr. Dyer moved to remove probation and terminate the consent agreement in the matter of Dr. Phelps. Dr. Sacchetti seconded the motion, which passed unanimously.

2. Christine Mellon, M.D.

Dr. Jones moved to amend the consent agreement to remove the condition of participation in the Medical Professionals Health Program from Dr. Mellon's consent agreement unless she changes her license status to active at which time the Board would revisit the consent agreement. Ms. Clukey seconded the motion, which passed unanimously.

3. William Fannin, M.D.

Dr. Jones moved to take no further action in the matter and let the consent agreement stand. Dr. Andrews seconded the motion, which passed 8-1-0-0.

VII. Adjudicatory Hearing (None Scheduled)

VIII. Remarks of Chairman

A. Paul Han on Risk

Dr. Nyberg will invite Mr. Han to speak to the Board at a future meeting.

B. Body Modification Policy Discussion (FYI)

C. Telemedicine Policy Discussion

The Special Projects Committee was assigned to discuss Telemedicine and report back to the full Board.

IX. Executive Director's Monthly Report (FYI)

A. Complaint Status Report (FYI)

X. Medical Director's Report (None)

XI. Remarks of Assistant Attorney General (None)

XII Secretary's Report

A. List A

1. M.D. List A Licenses for Ratification

Dr. Jones moved to ratify approval of the physician licenses on M.D. List A. Dr. Nyberg seconded the motion, which passed unanimously.

The following license applications have been approved by staff and Board Secretary David D. Jones, M.D., without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Berry, Alexander	Urology	Bangor
Chartier, Molly B.	Dermatopathology	York
Curlik, Semena	Anesthesiology	Bangor
Elkins, Joan	Family Medicine	Kennebunk
Ernst, Rasai L.	Family Medicine	Not Listed
Espinosa Morazan, Allan V.	Internal Medicine	Caribou
Gonzalez III, Luis F.	Diagnostic Radiology	Presque Isle
Hamoudi, Mazen H.	Psychiatry	Not Listed
Hicks, Raymond H.	Occupational Medicine	Augusta
Jaber, Randa A.I.	Internal Medicine	Skowhegan
Jah, Fatimah O.	Family Practice	Not Listed
Karne, Rajaram	Endocrinology	Waterville
Kerr, Matthew	Emergency Medicine	Norway
Lamb, Colin B.	Psychiatry	Not Listed
Longobardi, Vito A.	Internal Medicine	Houlton
Macharia, Thomas C.	Internal Medicine	Aroostook County
Mau, Elaine	Orthopedic Surgery	Lewiston
Minotti, Anthony J.	Diagnostic Radiology	Telemedicine
Morss, Alexander M.	Cardiovascular Disease	Kittery
Nelkovski, Lidia	Internal Medicine	Not Listed
Noonan, Richard P.	Family Medicine	Not Listed
Ouaknine, Simon	Urology	Presque Isle
Perrone, Anthony	Plastic Surgery	Augusta
Reilly, James C.	Surgery	Lewiston
Rexroad, Jason T.	Diagnostic Radiology	Machias
Schapiro, Lana E.	Pediatrics	Calais

Seeger, Richard W.	Vascular Surgery	Not Listed
Siddiqui, Sohaib	Family Practice	Dover-Foxcroft
Sledge IV, Albert G.	Emergency Medicine	Norway
Ungar, Jay M.	Internal Medicine	Not Listed
Varghese, Tiny K.	Internal Medicine	Not Listed
Weiss, Gregory M.	Anesthesiology	Not Listed
Whittemore Jr., Stanley L.	Family Practice	Ellsworth
Yang, Chia-Shing	Internal Medicine	Bangor

2. P.A. List A Licenses for Ratification

Dr. Jones moved to ratify approval of the physician assistant licenses on P.A. list A. Dr. Sacchetti seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by Board Secretary David Jones, M.D., without reservation:

NAME	LICENSE	PSP	LOCATION
Kathleen Bradley, P.A.-C	Active	Sacha Matthews, M.D.	Portland
Reagan Gagnon, P.A.-C	Inactive	None	None
Norman Keller, P.A.-C	Inactive	None	None
Kristin O'Hara, P.A.-C	Active Temp	Mark Overton, M.D.	Fort Kent

B. List B Applications for Individual Consideration

1. Ira Scott, Jr., M.D.

The Licensure Committee moved to grant a temporary license to Dr. Scott with the understanding that Dr. Scott will insure that the Board receive a letter from his supervisor at The Acadia Hospital within six months. The motion passed unanimously.

2. Hil Rizvi, M.D.

The Licensure Committee moved to deny preliminarily the license application of Dr. Rizvi, with leave to withdraw the application. The motion passed 8-0-0-1 with Dr. Jones recused.

C. List C Applications for Reinstatement

1. List C Applications for Reinstatement for Ratification (None)

2. List C Applications for Reinstatement for Individual Consideration (None)

D. List D Withdrawals

1. List D (1) Withdraw License Application (None)

2. List D (2) Withdraw License from Registration

Dr. Barnhart moved to approve the licensees applying to withdraw their licenses from registration. Dr. Sacchetti seconded the motion, which passed unanimously.

The following physicians have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Moses, Jacqueline	MD18041
Nanavati, Dinesh	MD11004
Stahl, Robert	MD16656
Van Leeuwen, Dirk J.	MD18357

3. List D (3) Withdraw License from Registration - Individual Consideration (None)

E. List E Licenses that lapsed by operation of law.

The following physician licenses lapsed by operation of law effective December 9, 2013.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Abbott, Jay	MD16526
Alas Baltero, Sheila	MD17548
Ali, Syed	MD18016
Auster, Rosalie	MD18319
Denney, Jill	MD17596
Gardner, Mary	MD12920
Garza, Elwyn	MD18153
Gilles, Fritz E.	MD19632
Goldfarb, Walter	MD5766
Hannouche, Nabil	MD9525
Hersini, Ali Abbasian	MD19030
Jensen, Ralph	MD13050
Labelle, Jean	MD6592
Little, James	MD18063
Miller, Christopher	MD14321
Momeni, Arash	MD18792
Moore, Robert	MD15856
Navarro, Fernando	MD16904
Nickerson, Christopher	MD19090
Noeddegaard, Louise	MD18887
Oberg-Higgins, Barbara	MD15220
Denise O'Grady	MD19273
Park, Brian	MD18907
Pena-Berdiel, Thelma	MD10596
Quimby, Thomas	MD19008

Record Jr., Nelson Burgess	MD7233
Rish, Ronald	MD18190
Schilbach, Chisthart	MD18994
Shea, David	MD10669
Sheffer, Miles	MD18466
Shelton, Jeremy	MD18820
Shervin, Nina	MD18316
Siegfried, Virginia	MD16941
Takeuchi, Sean	MD17674
Tan, Charissa Charlene	MD17993
Tkach, John	MD13903
Walters, Carrie	MD18077
Williams, Rachel	MD19038
Yauga, Henry	MD17251

F. List F Licensees requesting to convert to active status (None)

G. List G Renewal applications for review

1. Christopher Jones, M.D.

The Licensure Committee moved to allow Dr. Christopher Jones to change his license status to inactive. The motion passed unanimously.

2. Robert Rovner, M.D.

The Licensure Committee moved to grant renewal for Dr. Rovner. The motion passed 8-0-0-1 with Dr. Andrews recused.

3. David Burdette, M.D.

The Licensure Committee moved to grant renewal for Dr. Burdette. The motion passed unanimously.

H. List H. Physician Assistant Schedule II Authority Requests for Ratification

1. Applications to Renew Schedule II Authority (None)

2. Applications for New Schedule II Authority

Dr. Jones moved to grant schedule II prescribing authority for the physician assistants on List H (2). The motion was seconded by Dr. Andrews and passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by the Board Secretary David Jones, M.D.

NAME	PSP	LOCATION
Heather Lawler, P.A.-C	Raymond White, M.D.	Portland
David Payne, P.A.-C	Katherine Ray, M.D.	Yarmouth
Valerie Poulos, P.A.-C	Steven Wilson, M.D.	Belfast
Elizabeth Teague, P.A.-C	Andrew Hertler, M.D.	Augusta

XIII. Standing Committee Reports

A. Administration, Policy, and Rules Committee

1. Policy – Withholding a Licensee’s Response to Complaint

Dr. Andrews moved to approve the policy “Withholding a Licensee’s Response to Complaint”. Dr. Barnhart seconded the motion, which passed unanimously.

B. Legislative and Regulatory Committee (FYI)

C. Physician Assistant Advisory Committee

1. Proposed Chapter 2 Rules Discussion

Representatives from each board will meet in the near future to work on Chapter 2.

XV. FSMB Material (None)

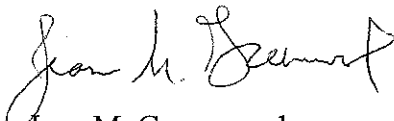
XVI. Other Business

A. 2013 Annual Report to Secretary of State (FYI)

XVII. Adjournment 3:31 p.m.

Dr. Nyberg moved to adjourn. Dr. Jones seconded the motion, which passed unanimously.

Respectfully submitted,



Jean M. Greenwood
Administrative Assistant